IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

TUESDAY, THE 27TH NOVEMBER 2007 / 6TH AGRAHAYANA 1929

CRP.No. 811 of 2005(A)

TLB.1192/1973 of TALUK LAND BOARD, HOSDURG.
.....

REVN. PETITIONER: RESPONDENT

STATE OF KERALA.

BY GOVERNMENT PLEADER R. BINDU.

RESPONDENTS: PETITIONER

ABDUL SALAM,
S/O. C.H.MOIDU HAJI (LATE),
MERCHANT, NILESHWAR.

BY ADV. SRI.B.RAMACHANDRAN

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 27/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

M.N. KRISHNAN, J.

= = = = = = = = = = = = = = =

C.R.P. NO. 811 OF 2005

= = = = = = = = = = = = = = =

Dated this the 27th day of November, 2007.

O R D E R

This revision petition is preferred against the order of the Taluk Lank Board, Hosdurg whereby the original declarant was directed to surrender one acre of land in RS. 554/1A. It is the Government who had preferred this revision. The grievance of the Government from the memorandum of revision appears to be regarding 31 cents of land in RS 467/1B and 50 cents of land in RS. 554/1A. A notice for re-opening under Section 85(9A) was given whereby the Taluk Land Board wanted to annex one acre in RS. 554/1A, 5 acres in 40-1A, 31 cents in 467/1B and 50 cents in RS. 554/1A. So far as 50 cents in RS. 554/1A is concerned the question did not arise for consideration for the reason that no notice was issued under Section 85(9A) of the Amended Land Reforms Act with respect to this land. In that notice no

mention was made about that survey number and it was therefore beyond the competency of the Land Board under Section 85(9A) to adjudicate the same. The Land Board correctly held so and therefore it does not require any interference.

2. The next point is regarding 5 acres in Sy.No.40-1A. The authorized officer deputed by the Taluk Land Board found that the said extent of land was assigned in favour of one Abdulla Haji and others as OA-605/76. Further a close reading of the revision memorandum also does not state anything about this 5 acres. The authorized officer is a person appointed by the Government who inspected the property and his report cannot be slightly brushed aside as Section 105 of the Kerala Land Reforms Act give sanctity to the same. Further when a certificate of purchase is issued in favour of a person under Section 72(k) of the Kerala Land Reforms Act it is a conclusive proof of tenancy. I am conscious of the fact that the Apex Court in the decision reported in ***Mathew v. Taluk Land Board (1979 KLT 601)***

had held that certificate of purchase issued by the Land Tribunal is a conclusive proof of tenancy unless it is vitiated for the reasons known to law. Here, there is no such averment. It is true that the Taluk Land Board is free to consider the question of tenancy independently besides the findings of the Land Tribunal. But, when a statutory authority issues a certificate of purchase complying with all the formalities under the enactment unless and until it is established that the said finding is wrong one cannot interfere with the same. Therefore, the extent of 5 acres excluded by the Land Board cannot be found fault with.

3. Lastly, the question is of 31 cents in 467/1B. The authorized officer has reported that it does not belong to the Statement Giver. It was accepted by the Land Board and in the revision petition also there is absolutely no document or averment to the effect that there is anything to show that 31 cents belong to the declarant. Therefore, one cannot find fault with the Taluk Land Board for arriving at such a decision. Ultimately the Taluk Land Board found that one acre

was in excess and it had directed the legal representatives of the declarant to surrender it. I do not find any perversity, illegality or irregularity committed by the Land Board in passing such an order. Therefore, the C.R.P. is dismissed.

M.N. KRISHNAN, JUDGE.

ul/-